



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2022-0064]

RIN 1625-AA00

Safety Zone; Blue Angels at Kaneohe Bay Air Show; Oahu, HI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone while the U.S. Navy Blue Angels Squadron conducts aerobatic performances over Kaneohe Bay, Oahu, Hawaii from 9 a.m. through 5 p.m., August 12-14, 2022. This safety zone will encompass a small area of the Kaneohe Bay Naval Defensive Sea Area, including an area that extends approximately 200 yards northeast and 1000 yards southwest of the Naval Defensive Sea Area and is bound by the following points: 21° 26.159' N, 157° 47.312' W; then south to 21° 25.890' N, 157° 47.250' W; then northeast to 21° 27.943' N, 157° 44.953' W; then west to 21° 28.016' N, 157° 45.250' W; and returning southwest to the starting point. This safety zone will extend from the surface of the water to the ocean floor. This safety zone is necessary to protect watercraft and the general public from hazards associated with the U.S. Navy Blue Angels aircraft low flying, high powered jet aerobatics over open waters. Vessels desiring to transit through the zone can request permission by contacting the Honolulu Captain of the Port (COTP) or her designated representative.

DATES: This rule is effective from 9 a.m. through 5 p.m., August 12-14, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the

docket, go to <https://www.regulations.gov>, type USCG-2022-0064 in the search box and click "Search." Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Chief Petty Officer Bradley Lindsey, Waterways Management Division, U.S. Coast Guard Sector Honolulu; telephone (808) 541-4363, email Bradley.w.lindsey@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On January 27, 2022, Kaneohe Bay Air Show 2022 coordinators informed the U.S. Coast Guard of a State of Hawaii approved Air Show plan that include an aerial performance “show box” extending beyond the Kaneohe Bay Naval Defensive Sea Area as established by Executive Order No. 8681 of February 14, 1941. Within this “show box”, the U.S. Navy Blue Angels Squadron will conduct aerobatic performances, exhibiting their aircraft’s maximum performance capabilities, over Kaneohe Bay, Oahu, Hawaii during a 3-day period. Taking into account the hazards associated within this “show box” during the Squadron’s high powered multiple jet aircraft performances, and that Kaneohe Bay normally experiences heavy waterway traffic during the weekends, the COTP determined that a safety zone for the portions of the “show box” that extend beyond the Kaneohe Bay Naval Defensive Sea would be appropriate to ensure the safety of all watercraft and the general public during the Blue Angels’ performances. In response, on March 28, 2022, the Coast Guard published a notice of proposed rulemaking

(NPRM) titled Safety Zone; Blue Angels at Kaneohe Bay Air Show; Oahu, HI (87 FR 17246). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this air show. During the comment period that ended April 27, 2022, we received no comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The COTP has determined that potential hazards associated with the air show scheduled to take place August 12-14, 2022 will be a safety concern for anyone within the “show box.” The purpose of this rule is to ensure safety of vessels and the general public in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published March 28, 2022. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a temporary safety zone while the U.S. Navy Blue Angels Squadron conducts aerobatic performances over Kaneohe Bay, Oahu, Hawaii from 9 a.m. through 5 p.m., August 12-14, 2022. This safety zone will encompass a small area of the Kaneohe Bay Naval Defensive Sea Area, including an area that extends approximately 200 yards northeast and 1000 yards southwest of the Naval Defensive Sea Area and is bound by the following points: 21° 26.159' N, 157° 47.312' W; then south to 21° 25.890' N, 157° 47.250' W; then northeast to 21° 27.943' N, 157° 44.953' W; then west to 21° 28.016' N, 157° 45.250' W; and returning southwest to the starting point. This safety zone will extend from the surface of the water to the ocean floor. These safety zones are necessary to protect watercraft and the general public from hazards associated with the U.S. Navy Blue Angels aircraft low flying, high powered jet aerobatics over open waters. Vessels requiring emergency transit through the zone may request permission by

contacting the on scene Patrol Commander on VHF channel 16 (156.800 MHz) or the Honolulu Captain of the Port at telephone number 808-842-2600.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of Kaneohe Bay and offshore waters. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have

a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and

preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that extends the Kaneohe Bay Naval Defense Sea Area on both sides that would prevent vessels from entering the flight paths for the air show. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165-- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

2. Add § 165.T14-0064 to read as follows:

§ 165.T14-0064 Safety Zone; Blue Angels at Kaneohe Bay Air Show, Oahu, Hawaii.

(a) *Location.* The following area is a safety zone: All waters contained within an area composing of one box on Kaneohe Bay Naval Defensive Sea Area as established by Executive Order No. 8681 of February 14, 1941, in Kaneohe Bay, Oahu, Hawaii. This safety zone extends approximately 200 yards northeast and 1000 yards southwest of the Naval Defensive Sea Area and is bound by the following points: 21° 26.159' N, 157° 47.312' W; then south to 21° 25.890' N, 157° 47.250' W; then northeast to 21° 27.943' N, 157° 44.953' W; then west to 21° 28.016' N, 157° 45.250' W; and returning southwest to the starting point. This safety zone extends from the surface of the water to the ocean floor. These coordinates are based upon the National Oceanic and

Atmospheric Administration Coast Survey, Pacific Ocean, Oahu, Hawaii, chart 19359 (NAD 83).

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Honolulu (COTP) in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative on VHF channel 16 (156.800 MHz) or the Honolulu Captain of the Port at telephone number 808-842-2600. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This rule will be enforced daily between the hours of 9 a.m. through 5 p.m., August 12-14, 2022.

A.L. KIRKSEY,
CAPTAIN, U.S. Coast Guard,
Captain of the Port Honolulu.

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